

**Town Council Minutes  
Morehead City, North Carolina**

**Tuesday, August 11, 2009**

The Honorable Council of the Town of Morehead City met in regular session on Tuesday, August 11, 2009, at 5:30 p.m., in the Municipal Building Auditorium at 202 South 8<sup>th</sup> Street, Morehead City, North Carolina. Those in attendance were:

MAYOR:	Gerald A. Jones, Jr.
MAYOR PRO TEM:	George W. Ballou
COUNCILMEN:	Paul W. Cordova
	David Horton
	John F. Nelson
	Demus L. Thompson [Arrived at 6:25 p.m.]
CITY MANAGER:	R. Randy Martin
CITY CLERK:	Jeanne M. Giblin
CITY ATTORNEY'S OFFICE:	Nelson W. Taylor, III, Derek Taylor, Michael Thomas
OTHERS:	Ken Oppenheim; Jennifer Oppenheim; Holly Fletcher; Bill Taylor; Jim Stumbo; Lori Wynn, Reporter, THE CARTERET NEWS TIMES; Capt. Garland Terry; Capt. Richard Abell; Keri McCann; Jeff McCann

**I. Regular Meeting Call to Order, Invocation and Pledge of Allegiance**

Mayor Jones reported that Councilman Thompson will arrive late.

Mayor Jones called the meeting to order at 5:30 p.m., Mayor Pro Tem Ballou gave the invocation, and all joined in The Pledge of Allegiance.

**II. Special Presentations:**

**II.A. Statement of Support for the Guard and Reserve – Kenneth R. Oppenheim**

Kenneth R. Oppenheim, Area Chair of the North Carolina Committee of Employer Support of the Guard and Reserve, presented a "Statement of Support" Ceremony requesting that the Town of Morehead City pledge to recognize, honor and enforce the Uniformed Services Employment and Reemployment Rights Act [USERRA]. There are 1.2 million men and women who are in the Guard and Reserve and at the present time 750,000 of those Guard and Reserve members have been mobilized. In North Carolina there are 26,000 people in the Guard and Reserve with approximately 5,000 currently deployed. Mr. Oppenheim thanked the Town of Morehead City for supporting the Guard and Reserve and he presented Mayor Jones with a plaque signed by the United States Secretary of Defense Robert Gates.

**II.B. The 36<sup>th</sup> Annual Morehead City Chapter Antique Automotive Club of America Car Show – Greg Nies**

Greg Nies, President of the local chapter of the Antique Automotive Club of America was unable to be present at the meeting.

**II.C. The Wahoo Challenge – Holly Fletcher**

Holly Fletcher, a representative from The Wahoo Challenge, presented an overview of this fishing tournament on October 7 through 10, 2009, on the Morehead City Waterfront at Jaycee Park. She thanked the Council and the City for their support. This is the fifth year for this fishing tournament which sponsors the Take a Kid Fishing Program and the Crystal Coast Hospice House.

Mayor Jones thanked the Wahoo Challenge for the economic benefits they bring to Morehead City and for their contributions to the local charities.

**II.D. Outer Banks Power Boat Association Crystal Coast Super Boat Grand Prix – Jeff & Keri McCann**

Jeff & Keri McCann, representatives of the Outer Banks Power Boat Association, gave an overview of the Crystal Coast Super Boat Grand Prix to be held on September 18, 19 and 20, 2009 along the Morehead City Waterfront. This is the fourth annual grand prix

and the sponsors are requesting the same services and use of the same areas as in the past. For the first time, this year CBS TV is nationally covering the race. The Downtown Morehead City Revitalization Association [DMCRA] and Carteret County Domestic Violence are the listed charities.

Jeff McCann reported that he met with North Carolina State Port security and they have been very helpful in allowing the event to take place at the State Port. He continued that there will be no conflict with the King Mackerel Tournament in terms of closing the ingress/egress of the port. The Power Boat Association is addressing the necessity of curtailing certain explicit sponsorships.

### **III. Adoption of the CONSENT AGENDA:**

#### **III.A. Approval of Minutes: Tuesday, July 14, 2009, Regular Meeting**

*Approved the minutes of Tuesday, July 14, 2009, Regular Meeting and dispensed with the reading.*

#### **III.B. Accept the Tax Collector and Finance Director Reports for July 2009**

**Note: There were no requests for release of overpayment of ad valorem taxes for July 2009.**

*Accepted the Tax Collector and Finance Director Reports for June 2009.*

#### **III.C. Adopt Resolution 2009-37 Endorsing the 36<sup>th</sup> Annual Morehead City Chapter Antique Automotive Club of America Car Show and Authorize Action necessary for the event to be held on Saturday, September 12, 2009, on the Morehead City Waterfront**

As in the past, Morehead City was once again requested to approve the use of various street sections and park[s] in addition to ancillary services to help make the 36<sup>th</sup> Annual Morehead City Chapter Antique Automotive Club of America Car Show a success. The primary use of the streets will be for the display of antique cars. The Public Works Committee of the Council reviewed this request and recommended approval.

*Adopted Resolution 2009-37 Endorsing the 36<sup>th</sup> Annual Morehead City Chapter Antique Automotive Club of America Car Show and Authorize Action necessary for the event to be held on Saturday, September 12, 2009, on the Morehead City Waterfront. [Resolution 2009-37 is attached to and made a part of these minutes.]*

#### **III.D. Adopt Resolution 2009-38 Endorsing The Wahoo Challenge and Authorizing Action necessary for the event to be held October 7 – 10, 2009, on the Morehead City Waterfront**

As in the past, Morehead City was requested to approve the use of various street sections and park[s] in addition to ancillary services to help make this event a success. The Wahoo Challenge is a private non-profit organization which promotes conservation among sportsfishermen and raises money for charities and worthwhile community projects. The Public Works Committee of the Council reviewed the request and recommended approval.

*Adopted Resolution 2009-38 Endorsing The Wahoo Challenge and Authorizing Action necessary for the event to be held October 7 – 10, 2009, on the Morehead City Waterfront. [Resolution 2009-38 is attached to and made a part of these minutes.]*

#### **III.E. Adopt Resolution 2009-39 Endorsing the Outer Banks Power Boat Association Crystal Coast Super Boat Grand Prix and Authorizing Action Necessary for the event to be held September 18, 19 & 20, 2009, on the Morehead City Waterfront**

**Councilman Nelson requested that this item be removed from the CONSENT AGENDA and placed as Item IV.A. New Business.**

#### **III.F. Adopt Resolution 2009-40 Approving a Governor's Highway Safety Program Grant Application in the amount of \$76,445 with a City match of \$13,491 for a**

**total of \$89,936**

As discussed during the budget process, Police Chief Wrenn Johnson requested and the Council approved the budget for Morehead City to apply for a Governor's Highway Safety Program Grant in the amount of \$76,445 with a City match of \$13,491. The grant would fund one [1] full time traffic officer in addition to the other direct costs such as a vehicle, equipment, training, etc. The primary goals would be reducing the number of traffic accidents, property damage and personal injuries in addition to starting a traffic reconstruction team that could determine criminal negligence in major injury or fatal crashes. This would fund one [1] of the previously funded officer positions lost to lack of funding. The Public Safety Committee of the Council reviewed the request and recommended approval. [NOTE: The other two [2] frozen non-funded positions discussed in the budget process were unfortunately not funded in the recently announced federal stimulus program grant awards.] It is also noteworthy, although action is not necessary at this time, that the City received word we have been approved for the equipment grant also discussed during budget meetings. This will allow the purchase of two [2] replacement cars. Combined with the GHSP grant vehicle purchase this will get three [3] of the five [5] cars the City would typically purchase each year.

*Adopted Resolution 2009-40 Approving a Governor's Highway Safety Program Grant Application in the amount of \$76,445 with a City match of \$13,491 for a total of \$89,936. [Resolution 2009-40 is attached to and made a part of these minutes.]*

**III.G. Award Contract No. 65 – Renovation of Pump Stations # 9 & 12 to the low bidder, Water & Waste Systems Construction in the amount of \$1,380,200.00 and Adopt Resolution 2009-42 Authorizing the Mayor to execute the contract documents**

The bids received on June 2, 2009, for the renovation of pump stations #9 & 12 are as follows:

1.	Water & Waste Systems Construction, Inc.	\$1,299,800.00
2.	Thomas Simpson Construction Co., Inc.	\$1,309,933.00
3.	Trader Construction Company	\$1,441,455.00
4.	State Utility Contractors, Inc.	\$1,498,000.00
5.	Dellinger, Inc.	\$1,499,689.00
6.	Laughlin-Sutton Construction Company	\$1,555,600.00
7.	R.D. Braswell Construction Company	\$1,699,020.00
8.	Step Construction, Inc.	\$1,676,000.00
9.	T.A. Loving Company	\$1,990,000.00

City Engineer, F. Tyndall Lewis, P.E., of McDavid Associates, Inc., recommended awarding the contract to the low bidder, Water & Waste Systems Construction, in the amount of \$1,380,200.00 [inclusive of \$80,400.00 of alternate bid items] subject to full and complete project approval by the North Carolina Division of Water Quality.

As previously reported to Council, Morehead City was approved for a loan up to \$2,100,000 from the North Carolina Clean Water State Revolving Fund under the federal stimulus funding from the American Recovery and Reinvestment Act [ARRA] of 2009. The Council has previously approved acceptance of these funds. These funds will be utilized to make the necessary upgrades to the aged main Lift Stations #9 which will be replaced and #12 which will be renovated. These lift stations are a vital part of the wastewater system. The Public Utilities Committee of the Council previously reviewed this project and bids and recommended approval.

*Awarded Contract No. 65 – Renovation of Pump Stations # 9 & 12 to the low bidder, Water & Waste Systems Construction in the amount of \$1,380,200.00 and Adopt Resolution 2009-42 Authorizing the Mayor to execute the contract documents. [Resolution 2009-42 is attached to and made a part of these minutes.]*

**III.H. Release and Spread upon the Record CLOSED SESSION Minutes**

The adoption of Resolution 2004-48 on October 12, 2004, implemented a policy whereby the approved and sealed minutes of closed sessions were to be periodically reviewed by the City Manager and City Clerk as to their content and the ability to be released and spread upon the record. The open meetings law permits a public body to

withhold the minutes or general account of a closed session from public inspection for “so long as public inspection would frustrate the purpose of a closed session.” The following closed session minutes were deemed to be available for release:

Tuesday, July 8, 2003	Ken Toodle Lawsuit
Tuesday, January 11, 2005	Disposal of 304 & 306 North 25 <sup>th</sup> Street; 309 North 23 <sup>rd</sup> Street; and 3119 Sunset Drive [2 lots]
Tuesday, January 10, 2006	Condemnation Proceedings for Lots 5, 6, 7, 8, 9, 10 and 11, Block 162 [North 7 <sup>th</sup> Street]; Approve Closed Session Minutes of December 12, 2005
Tuesday, July 11, 2006	Bridges Street End Right-of-Way
Tuesday, August 8, 2006	Bridges Street End Right-of-Way
Tuesday, September 19, 2006	Bridges Street End Right-of-Way; Approve Closed Session Minutes of August 8, 2006
Tuesday, October 10, 2006	Bridges Street End Right-of-Way; Approve Closed Session Minutes of September 19, 2006
Tuesday, November 14, 2006	Bridges Street End Right-of-Way
Monday, March 26, 2007	Phase II Stormwater NPDES permit designation
Thursday, April 26, 2007	Honorary Recognition of Mr. Puck O’Neal
Tuesday, June 12, 2007	Condemnation Proceedings against Rufus Murray, Cynthia & Clayton Davis and Mabel Horton for Wastewater Treatment Plant Property; Property acquisition near Rotary Park and new baseball park
Tuesday, September 11, 2007	Condemnation Proceedings against Rufus Murray, Cynthia & Clayton Davis and Mabel Horton for Wastewater Treatment Plant Property; Property acquisition near Rotary Park and new baseball park
Wednesday, November 7, 2007	Approve Closed Session Minutes of October 9, 2007; Acquisition of the properties on Treatment Plant Road
Tuesday, February 12, 2008	Approve Closed Session Minutes of January 8, 2008; Acquisition of Rufus Murray property on Treatment Plant Road
Tuesday, April 8, 2008	Albert C. Monk III Zoning Decision; Pepsi America’s Sail 2006; North 7 <sup>th</sup> Street Lawsuit
Tuesday, May 13, 2008	North 7 <sup>th</sup> Street Lawsuit
Tuesday, June 10, 2008	North 7 <sup>th</sup> Street Lawsuit
Tuesday, July 8, 2008	North 7 <sup>th</sup> Street Lawsuit
Thursday, July 31, 2008	Consolidated E-911 Communications Center
Tuesday, August 12, 2008	North 7 <sup>th</sup> Street Lawsuit
Thursday, August 21, 2008	North 7 <sup>th</sup> Street Lawsuit
Tuesday, September 9, 2008	North 7 <sup>th</sup> Street Lawsuit
Wednesday, October 29, 2008	Acquisition of Horton/Davis property on Treatment Plant Road

By releasing these minutes at a Town Council Meeting there is a record and date of the release for filing in the minute books.

*Released and spread upon the record excerpts of the Closed Session Minutes of: July 8, 2003; January 11, 2005; January 10, 2006; July 11, 2006; August 8, 2006; September 19, 2006; October 10, 2006; November 14, 2006; March 26, 2007; April 26, 2007; June 12, 2007; September 11, 2007; November 7, 2007; February 12, 2008; April 8, 2008; May 13, 2008; June 10, 2008; July 8, 2008; July 31, 2008; August 12, 2008; August 21, 2008; September 9, 2008; and October 29, 2008.*

### **III.I. Approve the Municipal Reimbursement Agreement with the North Carolina Department of Transportation [NCDOT] for the Morehead City Pedestrian Plan**

In November 2008, the Council supported a request for North Carolina Department of Transportation [NCDOT] grant funding to complete a comprehensive Pedestrian Transportation Plan for Morehead City as an update to the Morehead City Alternative Transportation Plan [MATS]. The total project cost is estimated at \$31,000 with \$24,800 of grant funding and a \$6,200 local match by the City. Notification has been received that the grant was awarded. The next process to move the project forward is to formally approve

the attached Municipal Reimbursement Agreement. Also of note is that one of the components of grant acceptance will be to appoint a Pedestrian Plan Advisory Committee at the next Town Council Meeting in September.

*Approved the Municipal Reimbursement Agreement for the North Carolina Department of Transportation [NCDOT] grant funds to complete a comprehensive Pedestrian Plan for Morehead City. [Attached to and made a part of these minutes is the approved agreement.]*

**III. J. Award of Phase I Storm Debris Removal Contract to D&J Enterprises of Mobile, Alabama as primary with Bamaco, Inc., of Brunnell, Florida as secondary; and Award Phase II Storm Debris Removal Contract to TFR Enterprises of Leander, Texas with DRC Emergency Services, LLC of Auburn, Alabama as secondary**

At the last meeting of the Public Works Committee the bids for both Phase I and Phase II storm debris removal were reviewed. Phase I work involves the immediate clearing of debris from roads and public properties to provide access for emergency services and cleanup crews. Phase I work is paid at hourly rates. Phase II work involves removal and disposal of vegetative, construction and demolition debris. For both phases of work the Federal Emergency Management Agency [FEMA] allows both a primary and secondary contract. If the primary contractor fails to respond in a timely manner, the City has the right to proceed to the secondary contractor.

For Phase I the primary contract is D&J Enterprises of Mobile, Alabama with the secondary low bid contractor Bamaco, Inc., of Brunnell, Florida. For Phase II work the primary contractor is TFR Enterprises of Leander, Texas and the secondary is DRC Emergency Services, LLC, of Auburn, Alabama.

These bids, contracts and reimbursement process for federal disaster funds are dictated by FEMA to ensure City eligibility for reimbursement. The Public Works Committee of the Council recommended approval.

In response to questions as to why the subject contractors came from outside the state of North Carolina, Manager Martin explained that essentially anyone can bid on these contracts which is a requirement from FEMA [Federal Emergency Management Act] if an entity wants to be reimbursed by the federal government. The procedure is complicated with high bonding requirements which seems to have the effect of only larger companies bidding. Local agencies are sometimes subcontracted by these larger companies. This is the procedure the City has to have in place in case there is a catastrophic event. If a small event occurs, the City could use local companies. He further explained that these companies are termed “storm chasers” and would be in the area ready to act well before a large storm event would occur.

*Awarded the Phase I Storm Debris Removal Contract to D&J Enterprises of Mobile, Alabama as primary with Bamaco, Inc., of Brunnell, Florida as secondary; and Awarded the Phase II Storm Debris Removal Contract to TFR Enterprises of Leander, Texas and DRC Emergency Services, LLC of Auburn, Alabama as secondary. [Attached to and made a part of these minutes are the bid results.]*

**III.K. Adoption of four [4] Budget Ordinance Amendments:**

- **Budget Ordinance Amendment 2009-31 in the amount of \$80,400 for Lift Station Improvements Grant Project Fund**
- **Budget Ordinance Amendment 2009-32 in the amount of \$162,000 for Wastewater Treatment Plant Improvements Capital Project Fund for construction of a new office/lab building**
- **Budget Ordinance Amendment 2009-33 in the amount of \$30,000 for the Charles Wallace School Property Acquisition/Improvements Capital Project Fund**

**Councilman Nelson requested that this budget ordinance amendment be removed from the CONSENT AGENDA and place with Item IV.B. Police Department/E-911 Communications Center Project.**

- **Budget Ordinance Amendment 2009-34 to Recognize Revenues and**

**Expenses of \$10,000 for the City Operation of the 4<sup>th</sup> Street Docks in the General Fund; and in the Water/Sewer Fund to appropriate \$943,407 of fund balance to be used for early payoff on installment purchase loan and transfer to the Lift Station Capital Project Fund**

Budget Ordinance Amendment 2009-31 recognizes a transfer from the Water/Sewer Fund in the amount of \$80,400 to be used with the lift station improvements grant project fund for the purchase of equipment not eligible to be funded by the American Reinvestment and Recovery Act [ARRA] funds. Expenditures are increased by the same amount.

*Adopted Budget Ordinance Amendment 2009-31 in the amount of \$80,400 for Lift Station Improvements Grant Project Fund. [Budget Ordinance Amendment 2009-31 is attached to Ordinance Book #6 in the vault.]*

Budget Ordinance Amendment 2009-32 is to update the budget to recognize a transfer from the Water/Sewer Fund of \$162,000 included in the FYE 6/30/2010 budget for the purpose of constructing a new office/lab building. Expenditures are increased by the same amount.

*Adopted Budget Ordinance Amendment 2009-32 in the amount of \$162,000 for Wastewater Treatment Plant Improvements Capital Project Fund for construction of a new office/lab building. [Budget Ordinance Amendment 2009-32 is attached to Ordinance Book #6 in the vault.]*

Budget Ordinance Amendment 2009-34 is to recognize changes in anticipated revenue and expenditures as follows:

- In the General Fund to recognize the increase in revenue in Sales & Services and expenditures in Cemetery/Building & Grounds of \$10,000 each related to the City operation of the 4<sup>th</sup> Street docks.
- In the Water/Sewer Fund to appropriate \$943,407 of fund balance to be used for early payoff of installment purchase loan in the amount of \$863,007 and transfer of \$80,400 to the Lift Station capital Project Fund for purchase of equipment not eligible for American Recovery and Reinvestment Act Funding. The Council agreed during the budget process to utilize utility fund accumulated reserves to retire this debt early.

In response to a question, Manager Martin explained that the \$10,000 is for the City assuming the leasing responsibilities of the boat slips on the waterfront which was not included as revenues in the budget for this service. Heretofore, the DMA Charter Company administered the individual leasing of the City docks, however, they decided not to renew their lease. This budget ordinance amendment allows the City the funding for the operation of the docks. Currently the City has up to a maximum of one [1] year leases for the dock spaces with all but two [2] of the dock spaces currently leased. The tenants have been notified that DMA Charter is no longer the leasing agency and the docks will be leased from the City.

Councilman Horton noted that the leasing of these Morehead City docks should be reviewed at a future meeting of the Public Works Committee of the Council.

*Adopted Budget Ordinance Amendment 2009-34 to recognize revenues and expenses of \$10,000 for the City operation of the 4<sup>th</sup> Street docks in the General Fund; and In the Water/Sewer Fund to appropriate \$943,407 of fund balance to be used for early payoff of installment purchase loan in the amount of \$863,007 and transfer of \$80,400 to the Lift Station capital Project Fund for purchase of equipment not eligible for American Recovery and Reinvestment Act Funding. [Budget Ordinance Amendment 2009-34 is attached to Ordinance Book #6 in the vault.]*

**III.L. Adopt Ordinance 2009-35 Amending the Code of Ordinances of the Town of Morehead City, Chapter 8, Licenses, Permits and Business Regulations, Article VIII, Tow Services**

The Morehead City Police Department implemented a temporary “trial period” method for wrecker rotation which is similar to that used in many cities. They notified all the rotation wreckers who agreed upon the trial period. This new method seems to work

well for both the wrecker companies and the Morehead City Police Department's need for this resource. The Public Safety Committee of the Council reviewed the requested amendment and recommended its adoption.

At the same time in order to cover the costs of inspections, administration, etc., the Morehead City Police Department has requested an application fee of \$25 be assessed for those wishing to be placed on the wrecker rotation list. The Public Safety Committee of the Council recommended its adoption.

*Adopted Ordinance 2009-35 Amending the Code of Ordinances of the Town of Morehead City, Chapter 8, Licenses, Permits and Business Regulations, Article VIII, Tow Services, Sec. 8-270 Application for call list privilege and Sec. 8-278 Weekly Rotation. [Ordinance 2009-35 is attached to Ordinance Book #6 in the vault.]*

**III.M. Adopt Ordinance 2009-36 Deleting Chapter 7, Health, Article I, *In General*, Sections 7-2 and 7-3 regarding the Rescue Squad from the Morehead City Code of Ordinances**

In 2001 the Morehead City Rescue Squad merged into the Morehead City Fire Department and became the Morehead City Fire/EMS Department. The rescue squad no longer functions as a separate agency. Chapter 7, Article I, Section 7-2 and 7-3 addresses the former rescue squad and are no longer appropriate since this agency no longer exists and should be deleted from the Code of Ordinances. The Public Safety Committee of the Council recommended approval of the amendment to the code.

*Adopted Ordinance 2009-36 Deleting Chapter 7, Health, Article I, In General, Sections 7-2 and 7-3 regarding the Rescue Squad from the Morehead City Code of Ordinances. [Ordinance 2006-36 is attached to Ordinance Book #6 in the vault.]*

**III.N. Approve Revisions to THE FEE SCHEDULE for Chapter 8, Art. VIII. Taxi Cabs; Chapter 8, Art. VIII. Tow Services; and Chapter 10, Public Records**

The City has not revised several public safety related fees in a number of years. As stated in the goals, fees are under review.

Police Chief Wrenn Johnson has requested the following changes be made to Morehead City's FEE SCHEDULE:

Chapter 8, Art. VI. Taxi Cabs – Initial Fingerprints \$10; SBI Check \$14; Administration/Photo \$10 for a total of \$34; Permanent Permit \$20; Annual Renewal \$20; Temporary Emergency Permit \$10.

Chapter 8, Art. VIII. Tow Services – Add \$25 a year fee for wreckers who wish to be on the paid rotation list to cover inspections, administration, etc.

Chapter 10, Offenses/Miscellaneous -- Public Records Copy Incident or Accident Report \$3 for each copy.

These changes are requested to keep pace with the costs of administration of these user fees. The changes were reviewed and recommended by the Public Safety Committee of the Council.

*Approved Revisions to THE FEE SCHEDULE for Chapter 8, Art. VIII, Taxi Cabs; Chapter 8, Art. VIII, Towing Fees; and Chapter 10, Public Records.*

***Councilman Ballou MOVED, seconded by Councilman Cordova, and carried unanimously, to adopt the CONSENT AGENDA in one [1] motion with the exception of Items III.E. and III.K. Ordinance 2009-33.***

**IV.A. New Business: Adopt Resolution 2009-39 Endorsing the Outer Banks Power Boat Association Crystal Coast Super Boat Grand Prix and Authorizing Action Necessary for the event to be held September 18, 19 & 20, 2009, on the Morehead City Waterfront**

This is the fourth year that the Outer Banks Power Boat Association, a private, non-

profit organization desires to promote Morehead City and the surrounding area for tourism in the “shoulder season” and requested to hold the Crystal Coast Super Boat Grand Prix on September 18, 19, and 20, 2009 in downtown Morehead City and at the state port. As in previous years, the City was requested to approve the use of various street sections and park[s] in addition to ancillary services to help make the event a success. The Public Works Committee of the Council reviewed the request. The Committee felt the street closure of Evans Street should cease at 7<sup>th</sup> Street. The Committee did not reach a consensus on recommending the resolution.

Councilman Nelson stated that he received numerous calls during last year’s super boat event about the decals on a particular boat participating in the event which portrayed almost nude women. He commented that the complainants objected to the boat at a family oriented event. Councilman Nelson showed pictures of the boat and felt that it was inappropriate being on Morehead City’s waterfront. He continued that he understands that anyone has the right to paint his boat in any manner he wants, but neither the City nor the event has to provide that individual with the venue and especially the ability to place his boat on the waterfront.

Councilman Horton commented that it is a question of what constitutes pornography.

City Attorney Nelson Taylor replied that pornography is difficult to define.

Keri McCann explained that the Outer Banks Power Boat Association makes the initial contacts for the boat entries and they can request that that particular super boat be made to cover up the offensive decals. She commented that the sponsors of that particular boat are very accommodating and are the only boat that has come every single year. They generate a lot of publicity for the event. Because of CBS TV filming the race, they may have to cover up the surface of the boat and they have the means to do so. The Power Boat Association does not have the right to ask them not to come and participate, however, she thinks they would not want to jeopardize the race. She affirmed that the Power Boat Association will do whatever it can to downplay the paintings displayed on the boat.

The Council concurred that it would be best if the owners were to cover up whatever they can on the surface of the boat and to have the association place this particular entry on a side street.

Councilmen Horton and Thompson both stated that they appreciated the boat race being in Morehead City and the difficult work in undertaking an event of this magnitude.

Councilman Nelson questioned whether one [1] of the motor homes at the event served alcoholic drinks.

Jeff McCann replied that the participants did not serve alcoholic beverages for sale to the public. Some participants did give away items such as energy drinks.

***Councilman Nelson MOVED, seconded by Councilman Thompson, and carried unanimously, to Adopt Resolution 2009-39 Endorsing the Outer Banks Power Boat Association Crystal Coast Super Boat Grand Prix and Authorizing Action Necessary for the event to be held September 18, 29 & 20, 2009, on the Morehead City Waterfront.*** [Resolution 2009-39 is attached to and made a part of these minutes.]

**IV.B. New Business:      *Adopt Budget Ordinance Amendment 2009-33 in the amount of \$30,000 for the Charles Wallace School Property Acquisition/Improvements Capital Project Fund***

Manager Martin explained that Ordinance 2009-33 was appropriated in the budget for initiating planning and design related activities to begin preparing for the future main building renovation project at the Charles Wallace School. The adoption of this ordinance would simply transfer the general fund budget previously approved appropriation for these activities to the capital project fund for this project. This appropriation is for the main building renovation and has nothing to do with the Police Department/E-911 Communications Center project. The City has not yet begun the process to hire an architect at this time for this project.



Councilman Horton commented that he felt that the City would need to know what the use of the building will be before we start the process to renovate it.

Manager Martin explained the planned purposes of the building as previously agreed upon was for City Hall office and meeting space with additional space available for other governmental agency uses and activities appropriate to the available spaces. This budget amendment begins the process and the specific use of these funds will be further discussed in committee and by the Council as project planning begins. The Manager reminded the Council that this funding and planning process was approved in the operating budget and in the Council goals for FY2009/2010.

***Councilman Nelson MOVED, seconded by Councilman Cordova, and carried unanimously to adopt Budget Ordinance Amendment 2009-33 in the amount of \$30,000 for the Charles Wallace School Property Acquisition/Improvements Capital Project Fund.*** [Budget Ordinance Amendment 2009-33 is attached to Ordinance Book #6 in the vault.]

**IV.B. New Business: Authorize a Contract for the Police/E-911 Communications Center Project**

Manager Martin reported that on July 9, 2009, bids were received for the Police Station/E-911 Communications Center renovation and addition capital project. Eleven [11] contractors submitted bids which were detailed by the City's architect, Stewart, Cooper, Newell. The low bidder on the project was D.H. Griffin Construction Company of Raleigh. As the bid tabulation lists, the contractor provided a base bid amount, per the architect's instructions, with the inclusion of a contingency amount and allowance amounts for six [6] detailed elements of the project. The base bid from the low bidder is \$4,355,800 without contingencies and allowances. Including these items with the base bid totals \$4,906,400. The bid also included eleven [11] alternates which are listed on the bid tabulation. Including all these alternates, the low bidder's total bid amount is \$5,290,000.

The architect, City staff, county representatives and the Council's Public Safety Committee reviewed the bids in detail. In reviewing the bids, the architect, staff and committee collectively recommended the low bid contractor D.H. Griffin Construction Company based upon satisfactory review of qualifications, experience and other related factors. In reviewing each of the alternate bid items, the architect, staff and committee agree that only seven [7] of the eleven [11] alternates [A-1, A-3, A-6, A-7, A-8, A-10 and A-11] be recommended for award to the contractor. This adjusts the low bidder total contract recommended for award from \$5,290,000 to \$5,105,500. Of this amount, per agreement, the City share is approximately 81.2 percent while the county share is approximately 18.8 percent of the items related to the Police/E-911 project. [NOTE: The actual shared costs will be further refined to ensure the county pays its fair share per the agreement but not costs related to improvements that serve the future uses of the Wallace building. For example, the recommended contract and alternates fund paving of the entire parking lot to serve the entire site including both the Wallace building and the Police/E-911 facility. Likewise, the mechanical HVAC system design has efficiencies included that reduce future costs for providing heating/cooling to the Wallace building. The City rightly acknowledges that unless the county becomes a future partner in that building, they should not share these costs at this time.] The enclosed memorandum and bid tabulation give additional details about alternates and City/county costs.

In reviewing the April 14, 2009, Council approved capital budget for this project, the total base bid with recommended alternates is less than the approved budget estimates for the contract. As noted earlier, county representatives reviewed the bid details. The bid results will be reported to the Board of County Commissioners on August 17, 2009. The City as owner will award the entire contract including the county's share with the county reimbursing the City for its share. The contract amount is well within the county's approved budget for their share of the project as well.

The Public Safety Committee of the Council, as noted, recommended awarding of the contract and selected alternates to the low bidder.

Councilman Horton commented that the total cost of the project is estimated at \$6 million. He was interested in how much the building will cost as well as the other essentials such as the architectural fees and how they are determined.

Manager Martin replied that in April the Council adopted a budget ordinance amendment totalling \$6 million which was the total budget appropriation for all related expenses for the project. It included the estimated cost of building construction, equipment, furnishings, architectural fees, contingencies and alternates.

Jim Stumbo, the project architect, commented that any design is included in the percentage for the architectural fees. If the City chooses not to accept certain alternates a percentage of the contract will be based only upon the alternates designed.

Manager Martin explained that the alternates include some specific things that either the City or county wanted included for funding consideration. By bidding separately some of the alternates, it will also make the break down of municipal or county cost responsibility or share an easier process.

Manager Martin reviewed the bid tabulation and associated papers and explained each of the alternates.

Architect Jim Stumbo commented that with regards to the alternate for potential lead abatement there is an assumption that there is lead paint within the existing building to be renovated. The county school system as the previous owner had done a study, but it was not complete. He continued that at this point we do not know for certain that there is lead in the building, however, we are confident there will likely be some necessity to address this issue just because of the age of the building. The \$50,000 allowance is for potential lead removal and/or abatement and/or for whatever other contaminants that may be identified in the building if any are found.

Manager Martin commented that the millwork and casework was listed as an alternate solely because the county needed to know what their share of the costs of this item would be. He further explained that the alternates that were not recommended will be considered in the future, for example, the additional ornamental perimeter fence around the parking lot. The City staff feels other options are available to reduce the cost for landscaping, irrigation, entrance canopies and fencing.

Councilman Horton questioned the \$300,000 contingency fund and what this amount specifically entailed.

Architect Jim Stumbo replied that whenever working with any major capital project and particularly in the case of renovation of an older building, one never knows what unexpected costs may be discovered in the construction and renovation process. If anything unexpected were to materialize, the architectural firm would make recommendations for its abatement to the City and the contingency funds would be available to address unexpected costs. The architects and consulting engineers have reviewed the existing facility to make sure it was structurally sound, however, rain water has in the past entered the building through the roof before it was repaired and caused damage.

Councilman Nelson stated he continued to have concerns with the overall cost of the building and felt it was exorbitant for a police building.

Architect Jim Stumbo replied that a police station under the building code is technically classified as an emergency services "essential" building with an average construction price between \$225 to \$250 per square foot. The price for renovation of the Morehead City building was estimated at \$200 per square foot. The cost is similar to other prices seen across the state and especially on the coast. The building is more than just a standard office building. There are different security areas, evidence holding, ballistic panels in certain areas, etc. These are the requirements for this type of building construction.

Councilman Horton was concerned that the savings were only 3% less than what was originally estimated.

Manager Martin suggested the Council enter into CLOSED SESSION for contract negotiation discussions and to consult with the City Attorney before taking final action to consider awarding the contract.

***Councilman Ballou MOVED, seconded by Councilman Thompson, and carried unanimously, to enter into CLOSED SESSION.***

***Councilman Ballou MOVED, seconded by Councilman Thompson, and carried unanimously, to return to OPEN SESSION.***

***Councilman Cordova MOVED, seconded by Councilman Ballou, to authorize a contract with the low bidder, D. H. Griffin Construction Company for up to \$5,105,500 which includes a \$300,000 contingency; \$250,600 in allowances; and, alternatives A-1, A-3, A-6, A-7, A-8, A-10 and A-11 which cumulatively total \$199,100 with the county reimbursing the city their share as determined by contract between the county and City. The motion passed with a vote of three [3] to two [2] with Councilmen Horton and Nelson casting the dissenting votes. [Attached to and made a part of these minutes are the bid results.]***

**V. Citizen Requests/Comments: None**

**VI. City Manager's Report:**

Manager Martin stated he had nothing additional to report.

**VII. Council Requests/Comments:**

Councilman Ballou reported that the Morehead City Police Department sponsored "Community Night Out" was a success and thanked Master Police Officer II Renee Hester for spearheading the event. He also expressed his appreciation to several local businesses for their donations which helped make the event a success. He stated the Police Department was planning to expand to two [2] events per year and that the next community night out is scheduled to be on April 7, 2010.

**VIII. CLOSED SESSION AS PER G.S. 143.318.11[a][3][5][i] TO DISCUSS PROPERTY ACQUISITION, CONTRACT NEGOTIATIONS, AND CONSULT WITH THE CITY ATTORNEY**

***Councilman Ballou MOVED, seconded by Councilman Cordova, and carried unanimously, to return to CLOSED SESSION.***

***Councilman Thompson MOVED, seconded by Councilman Ballou, and carried unanimously, to return to OPEN SESSION.***

There being no further business, the meeting adjourned at 9:00 p.m.

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Gerald A. Jones, Jr., Mayor

Attest:

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Jeanne M. Giblin, City Clerk